THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6865 OF 2006

DATED: 06-04-2006

BETWEEN
Dimmita Nageswara Rao,
S/o. D. Venkateswarlu,
R/o. Vadlamannadu Village
& Panchayat
Krishna District.

...PETITIONER

AND
The District Collector,
Krishna District,
Machilipatnam,
Krishna District,
and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the proceedings bearing Roc.No.1913/05 P.6 dated 24.03.2006 of the first respondent as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner was elected as Sarpanch of Vadlamannadu Gram Panchayat and on 16.08.2005 the extraordinary General Body of the Gram Panchayat it was unanimously resolved under Resolution No.41/2005 to direct the Secretary of the Gram Panchayat to get the accounts of the Gram Panchayat for the period 2004-05 audited before 31.03.2005.

While so, the District Collector, Panchayat Wing passed the impugned order dated 24.03.2006 in Roc.No.1913/2005 P.6 declaring that the petitioner

incurred disqualification under Section 20-B of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act') as he failed to get the accounts of the Gram Panchayat audited for the year 2004-05 before 31.12.2005 and he was directed to hand over the charge to the Upa Sarpanch.

No doubt, under Section 20-B of the Act a Sarpanch shall cease to hold office if he fails to get the accounts of the Gram Panchayat audited within the period as required under the proviso to sub-section (3) of Section 266 of the Act. In the instant case the accounts of the Gram Panchayat for the year 2004-05 has to be audited before 31.12.2005. Under Section 22(1) of the Act the competent authority to decide the question of disqualification of a Sarpanch or a member is only the District Court on an application of any member or the Executive authority at the direction of the Gram Panchayat or the Commissioner within a period of two months from the date on which such intimation is given or doubt is entertained. Therefore, I am of the opinion that the District Collector, Panchayat Wing, is not the competent authority to decide the question of disqualification of the petitioner incurred under Section 20-B of the Act.

Learned counsel for the petitioner placed reliance on a Division Bench judgment of this Court in **CHAVA ROSAIAH v. CHINTAKA VENKATESWARLU**[1] wherein in similar facts and circumstances the appeal was allowed setting aside the impugned order for taking appropriate action in accordance with Section 22 of the Act.

Following the aforesaid judgment, the writ petition is allowed setting aside the impugned order keeping it open either for the executive authority at the direction of the Gram Panchayat or
the Commissioner or any other Member to apply to the District Court to decide the question of disqualification incurred by the petitioner under Section 20-B of the Act.

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V. ESWARAIAH, J

April 6, 2006
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[1] 2004 (1) ALD 54 (DB)